

104TH CONGRESS  
1ST SESSION

# H. R. 2284

To provide incentives for the owners and operators of agricultural land to provide habitat for protected species.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 1995

Mr. POMBO introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide incentives for the owners and operators of agricultural land to provide habitat for protected species.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CONSERVATION HABITAT RESERVE PROGRAM.**

4 (a) ESTABLISHMENT.—The Secretary shall enter into  
5 contracts in accordance with this section with owners and  
6 operators of lands suitable for conservation habitat, under  
7 which the owners and operators manage the land for the  
8 protection of protected species in exchange for cash pay-  
9 ments from the Secretary.

1 (b) CONTRACT REQUIREMENTS.—

2 (1) DUTIES OF OWNERS AND OPERATORS.—

3 (A) IN GENERAL.—Each contract entered  
4 into under this section with respect to land  
5 shall obligate the owner or operator of the  
6 land—

7 (i) to implement a plan approved by  
8 the Secretary, in consultation with the Sec-  
9 retary of the Interior, for management of  
10 the land;

11 (ii) not to use the land in a manner  
12 that is inconsistent with the purpose of the  
13 contract; and

14 (iii) on the violation of a term or con-  
15 dition of the contract at any time the  
16 owner or operator has control of the  
17 land—

18 (I) to forfeit all rights to receive  
19 rental payments and management fees  
20 under the contract, if the Secretary,  
21 after considering the recommenda-  
22 tions of the Secretary of the Interior,  
23 determines that the violation warrants  
24 termination of the contract; or

1 (II) to refund to the Secretary,  
2 or accept adjustments to, the rental  
3 payments and management fees pro-  
4 vided to the owner or operator, as the  
5 Secretary considers appropriate, if the  
6 Secretary, after considering the rec-  
7 ommendations of the Secretary of the  
8 Interior, determines that the violation  
9 does not warrant termination of the  
10 contract.

11 (B) CONTENTS OF PLAN.—The plan re-  
12 ferred to in subparagraph (A)(i) shall set  
13 forth—

14 (i) the management practices to be  
15 carried out by the owner or operator of the  
16 land; and

17 (ii) any permitted use of the land.

18 (2) DUTIES OF THE SECRETARY.—Each con-  
19 tract entered into under this section shall obligate  
20 the Secretary—

21 (A) to pay the cost of carrying out the  
22 management measures and practices set forth  
23 in the contract, to the extent that the Secretary  
24 determines is appropriate and in the public in-  
25 terest;

1 (B) for a period of years not in excess of  
2 the term of the contract, to pay an annual rent-  
3 al payment in an amount necessary to com-  
4 pensate for the conversion of the land to, or use  
5 of the land for, conservation habitat; and

6 (C) to provide technical assistance and  
7 management training to assist the owner or op-  
8 erator in carrying out the contract.

9 (3) DURATION.—Each contract entered into  
10 under this section shall be for a term of not fewer  
11 than 5 years and not greater than 10 years.

12 (c) OTHER RULES APPLICABLE TO CONTRACTS.—

13 (1) MODIFICATION.—The Secretary may modify  
14 a contract entered into with an owner or operator  
15 under this section if the owner or operator agrees to  
16 the modification.

17 (2) RENEWAL.—Notwithstanding subsection  
18 (g)(3)(C), the Secretary may renew a contract en-  
19 tered into under this section only if, at the time the  
20 contract would otherwise expire, a protected species  
21 is occupying the land subject to the contract.

22 (3) TERMINATION.—The Secretary may termi-  
23 nate a contract entered into with an owner or opera-  
24 tor under this section if—

1 (A) the owner or operator agrees to the  
2 termination; and

3 (B) the Secretary determines that the ter-  
4 mination would be in the public interest.

5 (4) EFFECT OF TRANSFER OF OWNERSHIP OF  
6 LAND.—If, during the term of a contract entered  
7 into under this section, an owner or operator of land  
8 subject to the contract sells or otherwise transfers  
9 the ownership or right of occupancy of the land, the  
10 new owner or operator of the land may—

11 (A) notwithstanding subsection  
12 (g)(3)(C)—

13 (i) continue the contract under the  
14 same terms or conditions; or

15 (ii) enter into a new contract in ac-  
16 cordance with this section; or

17 (B) elect not to participate in the program  
18 established under this section.

19 (d) LIMITATIONS.—

20 (1) COUNTY IMPACT.—The Secretary shall not,  
21 at any one time, have in effect under this section  
22 contracts with respect to more than 25 percent of  
23 the land or water in any one county, except to the  
24 extent that the Secretary determines that doing so

1 would not adversely affect the local economy of the  
2 county.

3 (2) RECENT CHANGES IN OWNERSHIP.—

4 (A) 3-YEAR RULE.—The Secretary may  
5 not, on any date, enter into a contract under  
6 this section with respect to land the ownership  
7 of which has changed in the immediately pre-  
8 ceding 3-year period.

9 (B) EXCEPTIONS.—Subparagraph (A)  
10 shall not apply to a change of ownership if—

11 (i) the change of ownership occurred  
12 by reason of the operation of a will or by  
13 succession as a result of the death of the  
14 previous owner;

15 (ii) the change of ownership occurred  
16 before January 1, 1995; or

17 (iii) the Secretary determines that the  
18 change of ownership occurred under cir-  
19 cumstances which give adequate assurance  
20 that the land was not acquired for the pur-  
21 pose of placement in the program estab-  
22 lished under this section.

23 (C) RULES OF INTERPRETATION.—Sub-  
24 paragraph (A) shall not be construed to—

1 (i) prohibit a new owner of land from  
2 electing to assume the obligations of the  
3 previous owner under a contract entered  
4 into under this section with respect to the  
5 land, and otherwise continue the contract  
6 in effect; or

7 (ii) require a person, as a condition of  
8 eligibility to enter into a contract under  
9 this section with respect to land, to own  
10 the land if the person—

11 (I) has operated the land for at  
12 least 3 years preceding the date of the  
13 contract or since January 1, 1995,  
14 whichever is later; and

15 (II) will control the land for the  
16 duration of the contract.

17 (e) PAYMENTS.—

18 (1) DETERMINATION OF AMOUNT.—

19 (A) INCENTIVE TO PARTICIPATION.—In  
20 determining the amount of annual rental pay-  
21 ments to be paid under contracts entered into  
22 under this section, the Secretary may consider,  
23 among other things, the amount necessary to  
24 encourage owners or operators to participate in  
25 the program established by this section.

1 (B) USE OF BIDS.—The Secretary may de-  
2 termine the amounts payable to owners or oper-  
3 ators in the form of rental payments under con-  
4 tracts entered into under this section, through  
5 the submission of bids in such manner as the  
6 Secretary may prescribe.

7 (2) TIMING.—

8 (A) IN GENERAL.—The Secretary shall  
9 provide payment for obligations incurred by the  
10 Secretary under a contract entered into under  
11 this section—

12 (i) with respect to any cost for man-  
13 agement incurred by the Secretary, as soon  
14 as possible after the obligation is incurred;  
15 and

16 (ii) with respect to any annual rental  
17 payment obligation incurred by the Sec-  
18 retary—

19 (I) as soon as practicable after  
20 October 1 of each calendar year; or

21 (II) at the discretion of the Sec-  
22 retary, at any time before such date  
23 during the year that the obligation is  
24 incurred.



1 (B) AUTHORITY TO MAKE PAYMENTS BE-  
2 FORE DETERMINING PERFORMANCE.—The Sec-  
3 retary may make payments under this section  
4 before determining performance.

5 (3) PAYMENTS TO THIRD PARTIES.—If an  
6 owner or operator who is entitled to a payment  
7 under a contract entered into under this section  
8 dies, becomes incompetent, is otherwise unable to re-  
9 ceive the payment, or is succeeded by another person  
10 who renders or completes the performance required  
11 of the owner or operator under the contract, the  
12 Secretary shall make the payment, in accordance  
13 with regulations prescribed by the Secretary and  
14 without regard to any other provision of law, in such  
15 manner as the Secretary determines is fair and rea-  
16 sonable in light of all of the circumstances.

17 (4) NO EFFECT ON OTHER PAYMENTS.—Rental  
18 payments received by an owner or operator under  
19 this section shall be in addition to, and shall not af-  
20 fect, the total amount of payments that the owner  
21 or operator is otherwise eligible to receive under this  
22 section, the Agricultural Act of 1949, or other Fed-  
23 eral law.

24 (f) CONSULTATION WITH THE SECRETARY OF THE  
25 INTERIOR.—The Secretary shall consult with the Sec-

1 retary of the Interior on all determinations and actions  
2 that are necessary to carry out this section.

3 (g) DEFINITIONS.—As used in this section:

4 (1) LAND SUITABLE FOR CONSERVATION HABI-  
5 TAT.—The term “land suitable for conservation  
6 habitat” means qualified land—

7 (A) that is occupied by a protected species;

8 or

9 (B) that—

10 (i) provides habitat which is suitable  
11 for a protected species; and

12 (ii) is likely to be occupied by a pro-  
13 tected species for part of each year.

14 (2) PROTECTED SPECIES.—The term “pro-  
15 tected species” means any species that is—

16 (A) included in a list published pursuant to  
17 section 4(c) of the Endangered Species Act of  
18 1973; or

19 (B) proposed pursuant to such Act to be  
20 included in such a list.

21 (3) QUALIFIED LAND.—The term “qualified  
22 land” means land that—

23 (A) as of January 1, 1995, was used for  
24 any agricultural purpose;

25 (B) is covered by—

1 (i) a cooperative management agree-  
2 ment provided for in section 6 of the En-  
3 dangered Species Act of 1973; or

4 (ii) a conservation plan provided for in  
5 section 10(a) of such Act;

6 (C) is not the subject of a contract in ef-  
7 fect under this section; and

8 (D) is not the subject of a contract in ef-  
9 fect under chapter 1 of subtitle D of title XII  
10 of the Food Security Act of 1985.

11 (4) SECRETARY.—The term “Secretary” means  
12 the Secretary of Agriculture.

13 (h) AUTHORITY SUBJECT TO APPROPRIATIONS.—  
14 The authority provided by this section shall be exercised  
15 only to the extent and in the amounts provided in advance  
16 in appropriations Acts.

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